IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 96 OF 2006
IN
CRIMINAL WRIT PETITION NO. 492 OF 2006

Mukund Iron & Staff Co-op.
Hsg. Soc. Ltd. & Ors. ..Petitioners

versus

State of Maharashtra ..Respondents

And

The Association of Tarun Utkarsh Mandal ..Applicants/ Intervenors

Mr. D. Chitnis for the Petitioners.

Mr. V. B. Konde-Deshmukh, APP for the Respondents - State.

Mrs. Pathan for the MCGM.

Mr. S. M. Oak for the Applicants / Intervenors.

CORAM : D. G. DESHPANDE, &
V. K. TAHILRAMANI,JJ.

DATE : 24TH MARCH, 2006

P.C. :

1. Heard.

2. Petitioners are going to construct a

compound wall as per 1982 Plan, copy of which is annexed at Exhibit ’G’ (page 52). The Intervenors, which is an Association of Villagers, in the above application, contend, that they have got a right of way through this land and the compound wall is going to obstruct their right of way. We, asked, the counsel for the Intervenors from the plan (Exhibit ’G’) as to which is the point of entry and exit. He pointed out that the yellow portion marked as Village Path 6’ wide (marked in Red) is the point of entry and exactly opposite thereto (marked in red) there is a point of exit.

3. Counsel for the petitioners state that the construction is according to the approved plan of Municipal Corporation of Greater Mumbai, and, therefore, issue should be decided by the MCGM. Counsel for the MCGM is present, she agrees to that proposal. In the circumstances, we pass the following order:

ORDER

. Intervenors should apply to the MCGM within

two weeks from today raising their contentions regarding right of way i.e. entry and exit, as stated above, with whatever proof and evidence they have got. If such a representation is made within the aforesaid period of two weeks, the MCGM will hear the petitioners and the intervenors and pass appropriate orders within four weeks thereafter. The MCGM should take Exhibit 'G' as the basis for deciding the issue in addition to other documents. The petitioners have agreed that if the MCGM comes to the conclusion about the right of way of the petitioners, 5 ft. gate will be erected at the point of entry and exit, till the dispute, if any, is resolved by the Civil Court. The petitioners have agreed to maintain statusquo till the MCGM takes decision. With these directions, the application is disposed of.

(D.G. DESHPANDE, J.)

(V.K. TAHILRAMANI, J.)